

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 09-0630

SHANE BUCHER,

Plaintiff and Appellant,

v.

PATRICK HAROLD HUGHES,

Defendant and Appellee.

FILED

FEB - 3 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA
ORDER

Appellant Shane Bucher (Bucher) appeals a judgment entered by the Ninth Judicial District Court, Toole County, in that court's Cause No. DC-01-028. Appellee Patrick Harold Hughes (Hughes) has moved to dismiss the appeal on grounds that Bucher lacks standing to appeal the judgment. Bucher has filed a response objecting to the motion to dismiss the appeal.

As Hughes points out, the District Court's Cause Number DC-01-028 is a criminal action, *State of Montana v. Patrick Harold Hughes*. The District Court sentenced Hughes in 2003 to a 6-year commitment to the custody of the Department of Corrections, all of which it suspended, and ordered Hughes to pay Bucher restitution.

The State of Montana petitioned in 2009 to revoke Hughes's suspended sentence. The District Court denied that motion and, pursuant to § 46-18-249, MCA, entered a civil judgment in the amount of \$29,463.70 against Hughes and in favor of Bucher, for restitution not yet paid. Although the civil judgment entered on that order was filed under the District Court's Cause No. DC-01-028, the civil judgment is entitled as indicated above. Bucher appeals from the District Court's failure to include interest on the civil judgment.

Section 46-18-249, MCA, allows a victim of a crime to treat restitution as a civil judgment against the offender and collect the restitution as a civil judgment. Here the District Court has transformed the unpaid restitution amount into a civil judgment. Under

these circumstances, we conclude Bucher has standing to appeal the amount of the civil judgment entered in his favor pursuant to § 46-18-249, MCA.

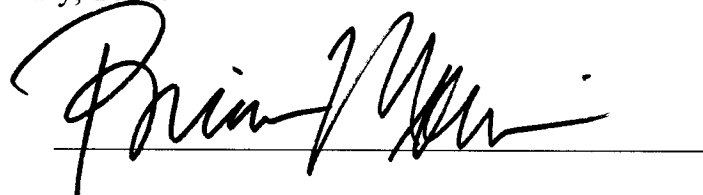
Bucher lacks standing to appeal the District Court's denial of the State's petition to revoke Hughes's suspended sentence. We do not interpret Bucher's appeal as an effort to challenge the District Court's decision regarding Hughes's suspended sentence.

THEREFORE,

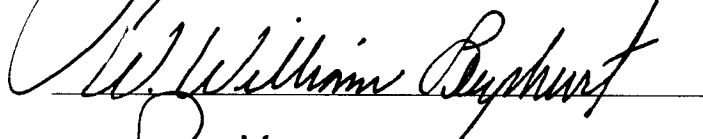
IT IS ORDERED that Hughes's motion to dismiss this appeal is DENIED.

The Clerk is directed to provide copies of this Order to all counsel of record.

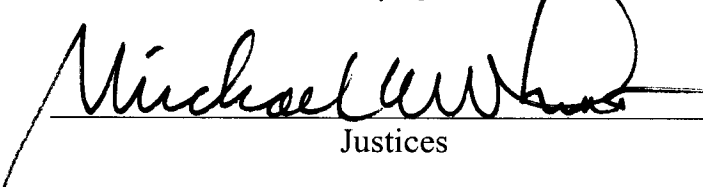
DATED this 3rd day of February, 2010.











Justices